

Docket No. R-7284

Ser. No. 10/047,794

REMARKS

Claims 1-3 and 5-14 are now pending in this application. Claims 1-10 are rejected. Claim 4 is cancelled herein. New claims 10-14 are added. Claims 1, 2, 5 and 8-10 are amended herein to clarify the invention, to broaden language as deemed appropriate and to address matters of form unrelated to substantive patentability issues.

CLAIM REJECTIONS UNDER 35 U.S.C. §103(a)

Claims 1-10 are rejected as obvious over the Fraccaroli reference under 35 U.S.C. §103(a). The applicant herein respectfully traverses this rejection. For a rejection under 35 U.S.C. §103(a) to be sustained, the differences between the features of the combined references and the present invention must be obvious to one skilled in the art.

It is respectfully submitted that a *prima facie* case of obviousness cannot be established in rejection of claims 1-3 and 5-10. "To establish *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable

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expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on the applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)." MPEP §706.02(j) "Contents of a 35 U.S.C. §103 Rejection".

Claims 1, and 8-10 are amended to include the subject matter of now cancelled claim 4. The original claim 4 recites that the information exchange means includes access setting means for allowing the paired mobile terminals to set an access time and an imaginary place in a game space and an access judging means for judging whether an access has been made at the set access time and place by those players through the paired communication terminals. Such a feature is not shown or hinted in Fraccaroli.

The divergence of the Fraccaroli reference from the claimed invention now recited in claim 1, is exemplified by the portion of the reference which the Examiner has cited, that is, column 10 of Fraccaroli, to reject claim 4. It is respectfully submitted that the Examiner has misinterpreted the teaching of this portion of the reference. It is true that it is mentioned in column 10 that the successfully matched pair exchange information (lines 40+ on column 10) and a so-called "Prompt", which is a message signal, is transmitted to the matched pair,

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allowing a communication between the matched pair through the respective mobile stations, and further allowing the exchange of the real phone numbers between the matched pair. Moreover, it is intended in Frac that the matched pair should be able to meet in person.

Unlike the present invention wherein a meeting at an imaginary place in game space is arranged, the Fraccaroli reference intends that the matched pair should be able to meet in person and goes on to extensive measures to ensure such a meeting. The reference teaches acquiring information to make sure of the real geographical location of the person who joins the matching game. Col. 1, lines 53 on. With regard to other systems it is stated that "unfortunately, there is a lack of immediacy to such computer dating services. Although geographical information such as each person's address is stored and a matching request can specify a geographical area, the dating services cannot ensure that a person is located in the requested geographical area" Thus, in Fraccaroli, a tracking system that tracks the real location of the mobile communication device is essential and is illustrated in Fig. 1. In other words, Fraccaroli emphasizes the importance of avoiding matching couples through a net game who cannot immediately meet each other because their actual geographical locations are too distant. The aim of the Frac reference, thus, teaches away the present invention as the present invention takes measures to avoid the disclosure of information which may lead to identifying

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the person at the terminal as much as possible. Please see a first paragraph on page 24 of the specification. In short, enabling an in-person meeting is an essential feature of the Fraccaroli reference which is inapposite to the present invention.

In contrast to the Fraccaroli reference, an object of the present invention is trying to avoid the real meeting as much as possible. This feature is now reflected in the independent claims, 1, 8-10 and 14 in the feature of setting an access time and an imaginary place in a game space. While the interest involved in picking a meeting place is presented in the game as claimed, since the meeting place is imaginary, the uncertainties involved in an in-person meeting are avoided. Thus, the claimed subject matter is clearly not taught nor suggested by the Fraccaroli reference.

Claim 5 recites that a mail box is given to the paired mobile communication terminals when judged as "successful access." The portion of the cited reference relied on by the Examiner for such a teaching does not in fact teach the claimed subject matter. Lines 25 to 40 on column 9 (Frac) do not mention or hint the establishing a mailbox to those who were successfully matched up.

Thus, it is respectfully submitted that the rejected claims are not obvious in view of the cited reference for the reasons stated above. Reconsideration of the rejections of claims 1-10 and their allowance are respectfully requested.

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NEXT ACTION CANNOT BE MADE FINAL

It is further noted that the above discussed features was present in the originally filed claims. As such, the present amendments cannot necessitate new grounds for rejection as the present rejections are respectfully submitted as failing to have been established. Accordingly, it is respectfully submitted that a next Office Action cannot be made final.

NEWLY ADDED CLAIMS

Claims 11-14 are added and are submitted as patentable over the cited art of record. Independent claim 14 recites subject matter directed to setting the meeting at the imaginary meeting place and conditions it on a finding "the paired communications terminals [are] judged to have a high degree of congeniality based on the answer information stored in the second answer information storage means." The second answer information storage means stores the answers in response to questions prepared by "question drafting means for letting one of the paired mobile communication terminals draft a specified number of questions and expected answers thereto based on the storage contents of the question storage means." This hierarchy of structure is not taught by the Fraccaroli reference.

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Dependent claims 11-13 are patentable based on the subject matter recited therein in addition to the subject matter of claims from which they depend. For example, claim 11 allows a successful meeting to be judged even if times of access do not overlap. This is clearly different from the actual meeting in the real life situation proposed by the Fraccaroli reference. In other words, no overlapping of the time between an access time period by A (for instance, one communication terminal accessed 11:15 to 11:20) and an access time period by B (for instance, another communication terminal accessed 11:22 to 11:25) is required for the successful access in this invention. In the real life, you have to be there while the other one you want to meet is present.

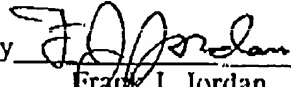
With regard to claim 12, the feature inhibits exchange of mailbox identities. The feature of claim 13, inhibits exchange of actual place locations. Such features directly oppose the object of the Fraccaroli reference and are thus submitted as patentable.

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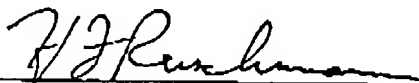
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In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited. Please charge any deficiency or credit any overpayment to Deposit Account No. 10-1250.

Respectfully submitted,
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